



CNR: KAHC010377452024

NC: 2026:KHC:55235
WP No. 18065 of 2024

IN THE HIGH COURT OF KARNATAKA AT BENGALURU

DATED THIS THE 5TH DAY OF OCTOBER, 2026

BEFORE

THE HON'BLE MRS. JUSTICE K.S. HEMALEKHA

WRIT PETITION NO.18065 OF 2024 (GM-RES)

BETWEEN:

M/S. TIME AND SPACE ENGINEERING
CONSTRUCTIONS PVT LTD.,
NO.289, 15TH MAIN, RMV EXTENSION,
BENGALURU URBAN - 560 080
REPRESENTED BY ITS PRESENT
MANAGING DIRECTOR,
RAVISHANAKR SHETTY.
INCORPORATED UNDER THE
COMPANIES ACT, 1956.

...PETITIONER

(BY SRI. T. PRAKASH, ADVOCATE)

AND:

DR. SOMASHEKHAR .N
AGED ABOUT 52 YEARS,
NO.08, AVALON NTI GUEST HOUSE,
BELLARY ROAD,
BENGALURU - 560 003.

...RESPONDENT

(BY SMT. SAKSHI M. KRISHNA, ADVOCATE)

THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA PRAYING TO QUASH THE IMPUGNED ORDER DATED 02.04.2024 VIDE ANNEXURE-A PASSED IN CMP/UR/210128/0007443 BY RERA AND TO PASS SUCH OTHER ORDERS AS THIS HON'BLE COURT DEEMS FIT TO PASS IN THE ENDS OF JUSTICE.

THIS PETITION, COMING ON FOR PRELIMINARY HEARING IN 'B' GROUP, THIS DAY, ORDER WAS MADE THEREIN AS UNDER:

CORAM: HON'BLE MRS. JUSTICE K.S. HEMALEKHA



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ORAL ORDER

1. The petitioner has filed the present petition impugning the order dated 02.04.2024 passed by the Karnataka Real Estate Regulatory Authority [**the K-RERA**]. By the impugned order, the complaint filed by the respondent under Section 31 of the Real Estate (Regulation and Development) Act, 2016 [**the RERA Act**] has been allowed and the petitioner has been directed to refund a sum of ₹85,56,987/- with interest within 60 days. Interest has been awarded at the rate of 9% from 01.08.2015 to 30.04.2017 and thereafter at the rate of SBI MCLR + 2% from 01.05.2017 to 17.12.2023, with further interest from 18.12.2023 till realisation. The Secretary, K-RERA, has also been directed to initiate proceedings under Section 59(1) of the RERA Act for violation of Section 3 of the RERA Act on account of non-registration of the project "Time and Space Infinity".

Brief facts

2. The petitioner-M/s. Time and Space Engineering Constructions Pvt. Ltd. [**M/s T and S Pvt. Ltd.**] was developing a residential apartment project "Time and Space Infinity", at Kannamangala Village, Kasaba Hobli, Devanahalli Taluk,



Bengaluru Rural District [**the project**]. The respondent booked Flat No.A-202 on the second floor of Block-A and an agreement dated 31.08.2015 was entered into between the parties for a total sale consideration of ₹49,33,536 /-. Under the agreement, the possession of the flat was required to be handed over on or before 01.08.2016. The respondent claims to have paid ₹46,93,506 /- towards the sale consideration.

3. The grievance of the respondent before the K-RERA was that, despite payment of substantial consideration, the petitioner neither completed the flat nor handed over the possession within the stipulated period. Accordingly, the respondent sought refund of the amount paid, together with interest.

4. The petitioner entered appearance before the K-RERA and resisted the complaint. Its principal defence was that the project had been completed in the year 2016 itself and that a completion/occupancy certificate had been obtained from the competent authority on 15.12.2016. In support thereof, the petitioner relied upon the said certificate as well as the photographs said to demonstrate completion of the project and Flat No.A-202. It



was further contended that the respondent had failed to pay the balance consideration of ₹2,40,030/-, apart from registration charges and other amounts.

5. The K-RERA, on consideration of the material on record, rejected the defence of the petitioner and allowed the complaint, resulting in the present writ petition.

Contentions

6. Learned counsel appearing for the petitioner would principally contend that the RERA Act itself has no application to the project in question, since the project stood completed in the year 2016 and completion/occupancy certificate was issued on 15.12.2016, much prior to the relevant provisions of the RERA Act coming into force. Therefore, the project would not fall within the ambit of the RERA Act and that the K-RERA lacked jurisdiction to entertain the complaint.

7. Reliance is placed upon the decision of the Co-ordinate Bench of this Court in **M/s. Provident Housing Limited v. Karnataka Real Estate Regulatory Authority and Others**¹, to

¹ WP No.18448/2021 D.D 02.01.2023



contend that, the projects which had already been completed or in respect of which a completion certificate had been granted before the RERA Act came into force, the Co-ordinate Bench of this Court has held that such projects would not fall within the ambit of the RERA Act.

8. *Per contra*, learned counsel appearing for the respondent would raise a preliminary objection regarding the maintainability of the writ petition. It is submitted that an appeal against the order of the K-RERA is expressly provided under Section 43 of the RERA Act. It is submitted that, though the petitioner approached this Court on the premise that the Appellate Tribunal was then not functional, the Appellate Tribunal has since been constituted and is functioning. Therefore, the petitioner ought, to have been relegated to the statutory appellate remedy.

9. On merits, learned counsel for the respondent would draw attention to the agreement dated 31.08.2015, under which possession was required to be delivered by 01.08.2016, and more particularly to the petitioner's own reply notice dated 04.01.2021. In the said reply, the petitioner has averred that certain internal works



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remained pending and that the work had commenced and would be completed by end of June 2021, subject to the payment of dues and additional costs by the flat owners. It is, therefore, contended that the petitioner's own contemporaneous communication belies its present contention that the entire project had been completed in 2016.

Reasons and conclusion

10. The principal contention of the petitioner is that the K-RERA lacked jurisdiction since the project had been completed prior to the RERA Act coming into force. The said contention cannot be accepted by this Court in order to exercise the extraordinary jurisdiction of this Court. The petitioner relies upon the certificate dated 15.12.2016 to contend that the project had been completed. The K-RERA has specifically examined the said contention and expressed doubts regarding the certificate. More importantly, the petitioner's own reply notice dated 04.01.2021 records that certain internal works were still pending and states that the work would be completed by end of June 2021. The K-RERA has specifically relied upon this circumstance to hold that the petitioner's contention regarding completion of the project in 2016 could not be accepted.



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11. Section 43 of the RERA Act provides a statutory appellate remedy against an order passed by the authority. The petitioner itself had approached this Court on the ground that the Appellate Tribunal was not then functional. It is not disputed that the Appellate Tribunal has since been constituted and is functioning.

12. Questions concerning the certificate dated 15.12.2016, the actual date of completion of the project, the effect of petitioner's reply notice dated 04.01.2021 and all other contentions are matters to be appropriately urged before the Appellate Tribunal.

13. In these circumstances, this Court does not find any justification for bypassing the statutory appellate remedy and adjudicating disputed questions of fact in exercise of jurisdiction under Articles 226 and 227 of the Constitution of India. Accordingly, the writ petition is ***disposed of***, reserving liberty to the petitioner to avail the statutory remedy of appeal under Section 43 of the RERA Act. If such appeal is preferred within 30 days from date, the Appellate Tribunal shall consider the same in accordance with law, without rejecting it on the ground of delay occasioned by the pendency of the present writ petition and the benefit of Section 14



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of the Limitation Act, 1963 shall be made available to the petitioner in accordance with law.

14. The amount, if any, deposited by the petitioner before this Court pursuant to the interim order, is transmitted to the Appellate Tribunal.

15. The Registry is also directed to return the certified copy of the impugned order to the learned counsel for the petitioner forthwith after retaining a photocopy thereof for the record.

Sd/-

JUSTICE K.S. HEMALEKHA

AT
List No.: 1 Sl No.: 31